

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8469 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

S T KARMACHARI MANDAL

Appearance:

MR HARDIK C RAWAL for Petitioner
NOTICE SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 23/09/1999

ORAL JUDGEMENT

Mr.Raval, Learned Advocate, is appearing for the
petitioner Corporation. Though served, the respondent
workman has not appeared. This petition was admitted on
19th January, 1991.

In the present petition the respondent was
working as a Conductor with the petitioner Corporation.
On 8.4.1978 while he was on duty from Jetpur to Harij,
admittedly six parcels were handed over to the
respondents at Jetpur. Out of these six parcels, one was

to be delivered at Surendranagar, three were to be delivered at Harij, there were two more parcels which were to be delivered at Bahucharaji and Viramgam. Now the bus started journey at about 6:15 p.m. and it came to Surendranagar at about 10:30 p.m. There was halt of 45 minutes at Surendranagar and during this period when the driver and conductor went for dinner, it appears that 2 parcels were stolen at Surendranagar. Admittedly, the delivery of one parcel was given to the Traffic Controller at Surendranagar and till that time the parcels were in order. After the conductor and driver came at the bus, the bus started at about 11:15 p.m. and the conductor was issuing tickets. After going two kilometers from Surendranagar, the conductor found that the two parcels were missing. He informed the driver to stop the bus and take it back to Surendranagar but the driver refused. The conductor inquired with the passengers sitting on the rear seats and he came to know that some persons were unloading the parcels when the driver and conductor had gone out to take their food. Thereafter, the concerned conductor had a telephonic talk at Surendranagar and he asked Surendranagar Traffic Controller to inquire into the matter and thereafter on 11.4.78, he met the Depot Manager at Surendranagar and then filed police complaint for the theft of the parcels. The petitioner Corporation has held that the respondent was responsible for the loss of the parcels in question and imposed punishment to recover an amount of Rs.1972.75 ps. of the parcels from the respondent workman, which order of punishment was challenged by the respondent workman before the Industrial Tribunal, Ahmedabad by filing Reference (IT) No. 82 of 1982. The Tribunal, after considering the facts on record, came to the conclusion that no doubt the respondent was negligent to some extent but the respondent appears to have noticed about missing of two parcels immediately after the incident and respondent had taken due care by telephonic talk at Surendranagar about missing of the parcels in question. The respondent had also lodged complaint on 11.4.1978. The Tribunal also observed that these are some of the mitigating circumstances and therefore a order of full recovery passed against the respondent workman appears to be harsh. The Tribunal therefore, partly allowed the reference by modifying the order of recovery. The Tribunal ordered that an amount of Rs.986.35 ps. should be recovered from the workman and directed that the remaining amount already recovered from the workman should be paid to him back. Against the said award, the petitioner Corporation has approached this Court by filing this petition under Article 227 of the Constitution of India.

I have gone through the impugned award passed by the Tribunal. I have also considered the reasons given by the Tribunal. The Tribunal has given detailed reasons for modifying the impugned order of punishment. The Learned Advocate appearing for the petitioner Corporation has not been able to point out any infirmity in the impugned award passed by the Tribunal. Same does not call for any interference by this Court in exercise of the powers under Article 227 of the Constitution of India. The petition is therefore dismissed. Rule is discharged with no orders as to costs.

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